

Diana Costantino Gomprecht (DG-2181)  
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 Attorneys for Defendant  
 BLUE CROSS AND BLUE SHIELD OF  
 MASSACHUSETTS, INC.

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

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CHRISTOPHER B. TURCOTTE and SUSAN	:	
TURCOTTE,	:	
	:	
Plaintiffs,	:	07 Civ. 4023 (RJS)(MHD)
	:	
- against -	:	
	:	<b>AFFIDAVIT IN SUPPORT</b>
BLUE CROSS BLUE SHIELD OF	:	<b>OF MOTION TO DISMISS</b>
MASSACHUSETTS, INC.,	:	
	:	
Defendant.	:	
-----	X	

STATE OF NEW YORK     )  
                                   )  
 COUNTY OF NEW YORK    )     ss.:

DIANA COSTANTINO GOMPREDIT, being duly sworn, deposes and says:

1. I am associated with the law firm of Epstein Becker & Green, P.C., attorneys for defendant Blue Cross and Blue Shield of Massachusetts, Inc. (erroneously named in the caption as "Blue Cross Blue Shield of Massachusetts, Inc.") ("Blue Cross"). I am fully familiar with the facts of this case and submit this affidavit in support of defendant's motion to dismiss, pursuant to Fed. R. Civ. P. Rules 12(b)(6) and 12(f), claims one and three through seven of plaintiffs' Verified Amended Complaint and to strike plaintiffs' jury demand.

2. Plaintiffs Christopher B. Turcotte and Susan Turcotte commenced this action on May 4, 2007 in the Civil Court of the City of New York, County of New York, in connection with the denial of healthcare benefits available to them through Christopher B. Turcotte's employer, Edwards Angell Palmer & Dodge LLP.

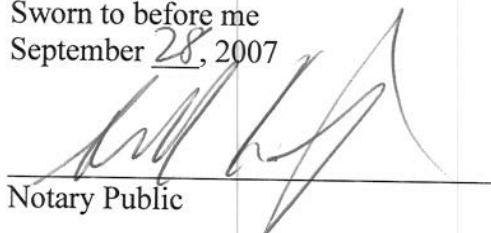
3. On May 23, 2007, Blue Cross removed the action to this Court.

4. On or about June 6, 2007, plaintiffs filed a Verified Amended Complaint. A copy of the Verified Amended Complaint is annexed hereto as Exhibit A.

5. Defendant timely advised the Court that it wished to move to dismiss the first and third through seventh causes of action under Fed. R. Civ. P. 12(b)(6) and 12(f) on the grounds that they were either preempted by ERISA, 29 U.S.C. § 1144(a), failed to state a claim or were redundant, and to strike Plaintiffs' jury claim.

  
Diana Costantino Gomprecht

Sworn to before me  
September 28, 2007

  
Notary Public

**AISHA L. JOSEPH**  
Notary Public, State of New York  
No. 02JO6077886  
Qualified in Queens County  
Commission Expires July 22, 2010